

REMARKS

Favorable reconsideration of this application is respectfully requested.

Claims 43-105 are pending in this application. Claims 43, 45, 47, 53, 62, 68, 78, 87, 91, 94, 96, 98, 100, 102, and 104 were rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over claims 22, 24, 38, 41, 59, and 61 of U.S. patent 6,578,041 to Deguchi (herein "Deguchi"). Claims 43, 45, 47-51, 53, 59-62, 65-81, 83-86, 91-93, and 96-105 were rejected under 35 U.S.C. § 102(e) as anticipated by Deguchi. Claims 44, 46, and 87-90 were rejected under 35 U.S.C. § 103(a) as unpatentable over Deguchi in view of U.S. patent 6,370,518 to Payne et al. (herein "Payne"). Claims 52 and 63-64 were rejected under 35 U.S.C. § 103(a) as unpatentable over Deguchi in view of U.S. patent 5,949,492 to Mankovitz. Claims 54 and 57 were rejected under 35 U.S.C. § 103(a) as unpatentable over Deguchi in view of U.S. patent 6,033,365 to Zitzewitz. Claim 58 was rejected under 35 U.S.C. § 103(a) as unpatentable over Deguchi in view of U.S. patent 5,818,800 to Barker. Claim 82 was rejected under 35 U.S.C. § 103(a) as unpatentable over Deguchi in view of U.S. patent 5,479,514 to Klonowski. Claims 94-95 were rejected under 35 U.S.C. § 103(a) as unpatentable over Deguchi in view of U.S. patent no. Re. 32,451 to Proctor et al. (herein "Proctor"). Claims 55 and 56 were objected to as dependent upon a rejected base claim, but were noted as allowable if rewritten in independent form to include all of the limitations of their base claims and any intervening claims.

Initially, applicants gratefully acknowledge the indication of the allowable subject matter in claims 55 and 56.

Addressing first the rejection of claims 43, 45, 47, 53, 62, 68, 78, 87, 91, 94, 96, 98, 100, 102, and 104 under the judicially created doctrine of obviousness-type double patenting over Deguchi, that rejection is traversed by the present response. Specifically, filed with the present response is a Terminal Disclaimer of U.S. patent 6,578,047 to Deguchi. The

submission of that Terminal Disclaimer is believed to address the outstanding double patenting rejection.

Addressing now the rejection of claims 43, 45, 47-51, 53, 59-62, 65-81, 83-86, 91-93, and 96-105 under 35 U.S.C. § 102(e) as anticipated by Deguchi, that rejection is traversed by the present response.

As recognized in the Office Action Deguchi has a common assignee with the instant application. The Office Action notes that the rejection of Deguchi may be overcome by showing under 37 C.F.R. § 1.132 that any invention disclosed but not claimed in Deguchi was derived from the inventors of the present application and thus is not an invention "by another". In response to that position in the Office Action filed with the present response is a Declaration under 37 C.F.R. § 1.132 making such a statement. The submission of that Declaration is believed to address that rejection under 35 U.S.C. § 102(e) over Deguchi.

Addressing now the rejections under 35 U.S.C. § 103 over Deguchi in view of the various other noted prior art, those rejections are also traversed by the present response.

Applicants state herein on the record that the present application and Deguchi were obligated to be commonly assigned at the time of the present application. Thereby, Deguchi is not a valid reference under 35 U.S.C. § 103. Thus, the rejections over Deguchi in view of Payne, Mankovitz, Zitzewitz, Barker, Klonowski, or Proctor are traversed by the present response.

As no other issues are pending in this application, it is respectfully submitted that the present application is now in condition for allowance, and it is hereby respectfully requested that this case be passed to issue.


Respectfully submitted,

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